IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 31ST OCTOBER 2006 / 9TH KARTHIKA 1928

Bail Appl..No. 6118 of 2006(D)

CRIME NO. 111/2006 OF PERUVANTHANAM POLICE STATION

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PETITIONER/ACCUSED:

SHIBU @ JOSEPH,
AGED 28 YEARS, S/O.SEBASTIAN,
ANCHARAMATTATHIL, 34TH MILE,
KOKKAYAR VILLAGE, IDUKKI DISTRICT.

BY ADV. SRI.T.A.UNNIKRISHNAN
SMT.RESHMI POULOSE

RESPONDENT/COMPLAINANT:

THE STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31/10/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A. 6118/2006

DATED THIS THE 31ST DAY OF OCTOBER, 2006

O R D E R

The petitioner is the first accused in crime No.111/2006 of Peruvanthanam Police Station, for the offence punishable under Sections 143, 147, 148 and 308 IPC read with Section 149 IPC.

2. The allegation is that accused 1 to 3 and ten other persons, who could be identified on site, had assaulted the defacto complainant and two others, and caused them various injuries. The wound certificate reveal the nature of the injuries, suffered by one Sumesh.

3. When the application came up for consideration, the learned counsel for the petitioner submits that he sustained injuries at the hands of the defacto complainant in this case and he was under the treatment in a Government hospital, on 19.8.2006. Therefore, the possibility of the petitioner involving in this case, is very remote. Hence, the counsel prays for a pre-

arrest order, as he was discharged from the hospital on 22.8.2006.

4. The prosecution, on the other hand, submits that the petitioner, along with others, in order to retaliate the earlier incident, had assaulted the defacto complainant and two others.

5. I had gone through the injuries, suffered by the injured persons in this case. I cannot primafacie jump into the conclusion regarding the presence, participation and involvement of the petitioner, the first accused. It could be ascertained only after interrogating the petitioner along with other accused, together with other materials available. The prosecution also submitted that the recovery of the weapons, used by the accused, is necessary. Therefore, opposed the application for granting a pre-arrest order.

6. Considering the submissions made by either side, I direct the petitioner, the first accused, to surrender before the Investigating Officer, who is investigating crime No.111/2006 of Peruvanthanam

Police Station, on 6.11.2006 at 10.00 a.m.

7. The Investigating Officer shall interrogate the petitioner and produce him before the Court below, as per the law.

8. On production of the petitioner, the learned Magistrate shall pass appropriate orders on merit, on the same day itself, after hearing both sides and considering the submissions made and the contentions raised by the learned counsel, before this Court .

9. If any application is filed by the prosecution, it shall also be considered by the learned Magistrate along with the application for bail, that may be filed by the petitioner.

The application is disposed of as above.

J.M.JAMES
JUDGE

mrcs